SUPREME COURT

STATE OF CONNECTICUT

NO. S.C. 19342

MADELINE GLEASON,

PLAINTIFF-APPELLEE-RESPONDENT,

- VS -

JANICE SMOLINSKI and JANICE BELL,

DEFENDANTS-APPELLANTS-PETITIONERS.

On Certification From The Appellate Court
(Alvord, Bear and Sheldon, JJ.)

BRIEF OF PLAINTIFF-APPELLEE-RESPONDENT

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TABLE OF CONTENTS

ISSUES PRESENTED

1 Did the Appellate Court properly conclude that the defendants' first amendment claim of protected speech failed to satisfy the third prong of the test for review of unpreserved claims set forth in *State v. Golding*, 213 Conn. 233 (1989)?

2 Did the Appellate Court properly affirm the trial court's determination that the defendants were liable for defamation per se of the plaintiff?

TABLE OF AUTHORITIES

TREATISES AND OTHER AUTHORITIES

STATEMENT OF THE CASE

The plaintiff Madeleine Gleason, a private citizen who resides in Woodbridge and is employed by B and B Transportation, Inc., as a school bus driver, brought this action against the defendants Smolinski and Bell, who are mother and daughter, alleging intentional infliction of emotional distress (Counts 1 and 2), defamation (Counts 3 and 4), invasion of privacy (Counts 5 and 6), and tortious interference with her employment relationship with B and B Transportation (Counts 7 and 8). The action was tried to the court (Corradino, J.) on November 29, 2011, and December 5, 2011. The court entered judgment in favor of the plaintiff on her claims of intentional infliction of emotional distress and defamation, and awarded compensatory damages of $32,000 for intentional infliction of emotional distress and $7,500 for defamation, and further awarded punitive damages in the total amount of $13,166.67.[1]

The defendants appealed, arguing that the verdict was contrary to the evidence, and in addition attacking the trial judge for "bias and lack of impartiality" and raising constitutional and other arguments not presented below. The Appellate Court affirmed and this court granted certification limited to two issues:

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[1] The defendants' assertion that "[a]t the post-trial hearing in this matter, Gleason's counsel made the stunning admission that Plaintiff sought only 'nominal damages' because Gleason did not 'present proof of actual damages,'" (Defendants' Brief, p. 26) is grossly misleading and, in fact, outrageous because defendants' error in making that claim was pointed out to them during briefing at the Appellate Court level. The claim for nominal damages related solely to the plaintiff's tortious interference claim, upon which the court rendered judgment in favor of the defendants. (Petitioners' Appendix, pp. A-119-20)

1 Did the Appellate Court properly conclude that the defendants' first amendment claim of protected speech failed to satisfy the third prong of the test for review of unpreserved claims set forth in *State v. Golding*, 213 Conn. 233 (1989)?

2 Did the Appellate Court properly affirm the trial court's determination that the defendants were liable for defamation per se of the plaintiff?

Viewing the evidence in the light most favorable to the prevailing party,[2] B and B Transportation, Inc., is a school bus company which for 23 years has served the Bethany, Woodbridge and Orange school districts as well as several private schools in the area. It is owned by Brad A. Cohen. (11/29/11 Transcript, p. 2) It is the number one bus company for southern Connecticut for safety and receives very few complaints from customers. (Id., p. 19) The plaintiff has been employed there as a school bus driver for almost twenty years. (Id., pp. 3, 85) Beginning in approximately August 2004 the company began receiving reports of the defendants following the plaintiff on her bus runs, interfering with the safe operation of the bus, and standing at the end of the driveway to the bus yard at strategic times when buses were leaving. (Id., p. 3) Customers began calling with concerns about telephone calls from the defendants reporting that the company had a murder as a driver. (Id., pp. 3-4) Specifically, calls were received from the Amity school system, the Woodbridge school system, the Hopkins School and COSTA, a state organization of which Mr. Cohen is a board member. (Id., p. 4) Calls came from the business manager of Amity

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[2] The defendants erroneously attempt to "spin" the evidence in the light most favorable to their position, ignoring the well-settled rule that in appellate challenges to verdicts rendered after trial, the evidence must be viewed "in the light most favorable to sustaining the facts expressly found by the trial court or impliedly found by the jury." State v. Jarrett, 218 Conn. 766, 770-71, 591 A.2d 1225 (1991).

High School, the business manager of Beecher Road School, the business manager at Hopkins School, and the Executive Director of COSTA, beginning in late 2004 and going forward. (Id., p. 5) Each expressed concern about receiving telephone complaints concerning the plaintiff. (Id., p. 7) Three identified a particular person as having made the calls. (Ibid.) The calls were made by the defendant Smolinski, who stated that B & B Transportation was "employing Madeleine Gleason and she was a murderer." (Id., p. 21)

In one incident at the Beecher Road School, cameras were involved and the police were summoned. (Id., p. 8) The employer became very concerned about the safety of the children and whether the plaintiff "could continue doing her job effectively with this going on." (Ibid.)

Mr. Cohen personally observed Mr. and Mrs. Smolinski on several occasions placing multiple posters on the two telephone poles on either side of the driveway into the bus yard. (Id., p. 9) He also observed those posters in other towns, but they were "concentrated on our place of business, and Madeleine's run, and in front of Madeline's house. (Id., pp. 9-10) It was so bad that Mr. Cohen "could easily just do a run by following the posters, they just led down every street, every side street...." (Id., p. 10) Exhibits 1 and 2 are examples of the types of posters involved. (Id., pp. 11-12)

One morning, Mr. Cohen went out when Mr. and Mrs. Smolinski were putting up posters on the street on the corner of the company driveway and asked them if they could stop doing it. They responded that "they believed Madeleine knew exactly what had happened [to their son] and they wouldn't stop hounding her until she gave up the information." (Id., p. 13)

Because of the actions of the defendants, B & B Transportation gave the plaintiff

less work than she otherwise would have received. (Id., p. 15) Her hours were reduced because of the calls, and she was paid by the hour. (Id., p. 23) The plaintiff received less pay from B & B Transportation because of the defendant's telephone calls. (Id., pp. 25-26)

Melissa DePallo is one of the plaintiff's best friends. They have known each other for 17 years. (Id., p. 27) She met Janice Smolinski in May 2004 and learned later that her son, Billy Smolinski, had disappeared. (Id., pp. 27-28) One day as she was leaving her place of employment, another school bus company located near B & B Transportation, defendant Smolinski approached her. The defendant had put a flyer up at the end of Ms. DePallo's lot on a pole. Ms. DePallo went over to pull it down because her employer did not want the flyer there, and the defendant "charged" at her and asked why she had done that. Ms. DePallo replied that she was following her employer's instructions. The defendant, speaking of the plaintiff, said: "You don't know what your friend is capable of. You don't know who she is. You don't know what she has done to my son. I don't think she killed him personally but I think she knows where he is and think she's involved." (Id., p. 29)

The plaintiff was living with Ms. DePallo at the time, in a house located at the end of a dead-end street, and that house and the telephone pole in front of it were "bombarded with flyers where there are no other flyers on that whole street but the one outside in front of my house." (Id., pp. 29-30) That targeted posting of flyers began in the fall of 2004 and continued for a couple of years. (Id., p. 30) At one point there were twenty such flyers posted outside her house. (Ibid.) If she tore them down, they would be replaced the following day. (Ibid.)

These things had "an extreme impact" on the plaintiff. She was "crying, upset,

having to go out wearing sunglasses because people identified her from the news, emotional distraught where she...couldn't leave the house without somebody following her and putting up flyers." This began in the fall of 2004 and continued through the following February and into March 2005. (Id., p. 31)

Part of the plaintiff's emotional distress was caused by public statements made about her by both defendants, on television programs of various kinds. They stated that the plaintiff "was in a love triangle with their son and...another fellow...and that he had gone missing and that they assumed and they thought that she had done something to him that he had gone missing." (Id., p. 32)

"Madeleine to this day is still very emotionally distraught about it, she is still very upset about everything that's going on. Every time she sees her name in a paper or TV news thing she's very emotional, she's very upset, she cries." (Id., p. 34)

On or about April 4, 2005, Officer James Sullivan of the Woodbridge Police Department, with another officer, handled a complaint in which the plaintiff and both defendants appeared in the lobby of the department as the plaintiff filed a complaint against the defendants for harassment. The plaintiff "was concerned because she was being videotaped and people were climbing on to her bus and...putting up posters all over town." After discussing matters with all three parties, Officer Sullivan informed Mrs. Smolinski "you can put posters up on every pole in town, just no more videotaping, climbing onto the buses, or going on to Beecher School...." (Id., p. 39) The defendants told him that "they believed that...Madeleine had knowledge of what may or may not have happened to...their son and that's why they were putting the posters up all over town." (Id., pp. 39-40) A fellow officer advised him that Mrs. Smolinski had stated that she had been

saturating with posters all of the areas where she knew the plaintiff went. (Id., p. 46) He also reported that Mrs. Smolinski had stated "that she was doing that because she was trying to break Mrs. Gleason." (Ibid.) He further advised that the defendant had admitted "that she had gone to where Gleason gets her bus in Bethany, Connecticut, and had gone to Beecher School, videotaping her along the way." (Id., pp. 47-48) Upon receiving that information from his brother officer, Officer Sullivan informed the defendants "that their actions with the video camera were an infringement that...the law might consider to be harassment." (Id., p. 48) He further told them that "if their actions continued they could be arrested." (Ibid.)

On April 15, 2005, Officer Sullivan "obtained a signed sworn statement from Ms. [Frances] Vrabel claiming that she observed Janice [Smolinski] put another sign up on a pole that was on property of Beecher Road School. As a result I did...an arrest warrant application for trespassing on Beecher School as she was advised by me through the school not to...go on to the property....[T]he warrant was signed and she turned herself in and she was processed." (Id., pp. 49-50)

Frances A. Vrabel also is a close friend of the plaintiff. (Id., p. 56) When Billy Smolinski vanished in August 2004, she and the plaintiff attempted to help the defendants search for him, but "they just shooed us away...[b]ecause they believed that we knew what happened to him." (Id., p. 59)

Ms. Vrabel resembled the plaintiff and at one point the defendants mistook her for the plaintiff and followed her on her bus route (she also drives a school bus for another company), putting up posters along the way. When Ms. Vrabel attempted to remove one of them, the defendant Janice Smolinski attempted to staple her hand to the telephone

pole. (Id., p. 60) The incident is shown on one of the videotapes made by the defendants and their family members. (Id., p. 64) Those tapes were shown on television. (Ibid.)

The defendant Janice Smolinski stated to Ms. Vrabel "that she believes that [the plaintiff] did something to her son. She believes that either Madeleine or someone in Madeleine's family murdered her son." (Id., p. 65) She made that statement "on several occasions." (Id., p. 66)

In April 2005, in the vicinity of the Beecher Road School in Woodbridge, the defendants were observed putting up posters on school land while making a videotape of the event. (Id., pp. 66-70) Because the defendants were blocking the plaintiff's bus, the plaintiff was instructed by her boss to drive to the police department nearby and report the incident. (Id., p. 71) There, in the lobby of police headquarters, "Janice Smolinski threatened to kill Madeleine...." (Id., pp. 72, 74) Her exact words were: "I am going to kill you." The defendant Bell was present when that threat was uttered. (Id., p. 74)

After the defendants decided to blame the plaintiff for Billy's disappearance, the plaintiff began receiving death threats on both her home telephone and her cellular telephone. She recognized the defendant Bell's voice on at least one of those calls. (Id., pp. 89-90) In December 2004 the defendant Bell threatened to "beat [her] up" if she kept taking down posters. (Id., p. 92)

The posters were strategically placed to have maximum effect on the plaintiff. Whenever she moved to a new house, posters would saturate the area immediately adjacent. If the plaintiff removed them, they would reappear the following day. (Id., pp. 93-94) The defendants launched a radio and television campaign against the plaintiff, "Madeleine Gleason, come see what she's doing ripping down the posters, what does she

have to hide; Madeleine Gleason, Madeleine Gleason what is she doing; love triangle with Madeleine Gleason...." (Id., p. 96) She saw the defendant Bell videotaping at the Beecher Road School and later saw that videotape on television. The television show Disappearances used her name ten times. (Id., p.97)

Both of the defendants followed the plaintiff constantly from 2004 until 2007 when this lawsuit was filed. (Id., pp. 101-02, 115) "Every time they saw me they would swear at me and call me all sorts of names...." (Id., p. 99) "They would come to my driveway, we would see them, they would write down all the license plates in my driveway. Anybody I dated, I was dating a New Haven Police Officer, he was getting envelopes...of things in his mailbox all the time, bad things about me all the time." (Id., pp. 102-03) Defendant Bell called the plaintiff "a Ho" in a telephone threat. "And Janet would come to the bus yard and call me all sorts of names swearing at me, calling me a Ho." (Id., pp. 103-04) "She called me a whore, a slut, right in front of the bus yard." (Id., p. 104)

At one point, in desperation, the plaintiff said to the defendant Janet Smolinski: "If I take a polygraph test and I pass with flying colors would you leave me alone?" The defendant replied: "Absolutely not. I will never leave you alone." (Id., p. 118)

Detective Robert Crowther of the Woodbridge Police Department[3] interviewed the defendant Janice Smolinski at police headquarters on April 4, 2005. At that time she stated "that she had been saturating all the areas where she knows Gleason goes because she's trying to break her, that she feels if she keeps this up, Gleason will eventually give up

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[3] Detective Crowther has served in that capacity for eight years, following 24 years as a New Haven Police Officer. (12/5/11 Transcript, p. 2)

information to her son's whereabouts." (December 5, 2011, Transcript, pp. 3-4)

Testifying on her own behalf, defendant Bell admitted taking videos of the plaintiff and giving them to Channel 8 for broadcast. (Id., pp. 16-18) She also admitted giving videos of the plaintiff to the Waterbury Observer newspaper. (Id., p. 20)

On August 16, 2005, Captain Edward Apicella of the Waterbury Police Department met with Officer Sullivan in the Woodbridge Police Department in the course of their official duties. At that time and location, Officer Sullivan informed him that defendant Janice Smolinski was going onto school property at the Beecher Road School, a location where the plaintiff drove a bus and picked up children. Officer Sullivan informed Captain Apicella that defendant Smolinski was going onto the school property and putting up missing persons posters and in addition was videotaping the plaintiff everywhere she went and yelling at her. He informed Captain Apicella that the defendants had no legitimate reason to be on school property and that the Woodbridge Superintendent of Schools had told the police that the defendants had no legitimate purpose to be on school property and that she did not want them there. Officer Sullivan further informed Captain Apicella that both defendants had been verbally warned not to go on to school property again but that defendant Janice Smolinski had stated that she was going to harass the plaintiff until she told her what happened to her son. (Id., pp. 75-77)

ARGUMENT

I STANDARD OF REVIEW

The standard of appellate review in any challenge to a verdict after trial, whether as to liability or as to the amount of damages, is abuse of discretion. "Our review...involves a determination of whether the trial court abused its discretion, according great weight to the action of the trial court and indulging every reasonable presumption in favor of its correctness...since the trial judge has had the...opportunity...to view the witnesses, to assess their credibility and to determine the weight that should be given to their evidence." Palomba v. Gray, 208 Conn. 21, 24-25, 543 A.2d 1331 (1988); O'Briskie v. Berry, 95 Conn. App. 300, 305-06, 897 A.2d 605 (2006). *Cf.*, *e.g.,* Malloy v. Town of Colchester, 85 Conn. App. 627, 858 A.2d 813 (2004); Chila v. Stuart, 81 Conn. App. 458, 840 A.2d 1176 (2004); Carusillo v. Associated Women's Health Specialists, P.C., 79 Conn. App. 649, 831 A.2d 255 (2003).

II THE APPELLATE COURT PROPERLY CONCLUDED THAT THE DEFENDANTS' FIRST AMENDMENT CLAIM OF PROTECTED SPEECH FAILED TO SATISFY THE THIRD PRONG OF THE TEST FOR REVIEW OF UNPRESERVED CLAIMS SET FORTH IN *STATE V. GOLDING*, 213 CONN. 233 (1989)

"[A] defendant can prevail on a claim of constitutional error not preserved at trial only if all of the following conditions are met: (1) the record is adequate to review the alleged claim of error; (2) the claim is of constitutional magnitude alleging the violation of a fundamental right; (3) *the alleged constitutional violation clearly exists and clearly deprived*

the defendant of a fair trial; and (4) if subject to harmless error analysis, the state has failed to demonstrate harmlessness of the alleged constitutional violation beyond a reasonable doubt. *In the absence of any one of these conditions, the defendant's claim will fail.*" State v. Golding, 213 Conn. 233, 239-40, 567 A.2d 823 (1989). (Emphasis supplied.)

The defendants' unpreserved free speech claim fails because it is far from clear that their conduct in this case fell within the protections of the First Amendment. The defendants admitted that they plastered areas frequented by the plaintiff with posters designed to intimidate her. As Brad Cohen testified, in those areas "there were multiple posters on each and every telephone pole, on guardrails." (Memorandum of Decision, p. 7) When the plaintiff moved in with her friend Mrs. DePallo, who lived on a dead-end street, that house "was definitely bombarded with flyers." As the Court found, "[t]here were no other flyers on the whole street; the pole in front of her house had twenty posters placed on it. When they were taken down, they went up the next day....when [the plaintiff] returned to her own home in Woodbridge it too was saturated with posters - the same pattern repeated itself at all three places where she lived." (Id., p. 8) Janet Smolinski admitted to Officer Crowthers of the Woodbridge Police Department "that she was intentionally saturating all the areas where she knows Gleason frequents 'because she was trying to break her.' Both defendants...stated they planned to harass Gleason [and her friend Frances Vrabel] until one of them breaks down and gives them information." (Id., p. 9) The defendants admitted to Mr. Cohen "that they didn't believe that [the plaintiff] actually killed Billy but they believed Madeline knew exactly what had happened and they wouldn't stop hounding her until she gave up the information." (Ibid.) Whenever they encountered the plaintiff "they would swear at her and call her names." (Id., p. 14) The plaintiff also was subjected to

threatening telephone calls, at least one of which was made by defendant Bell. (Ibid.)

Snyder v. Phelps, 131 S. Ct. 1207 (2011), upon which the defendants rely, involved picketing which was conducted one thousand feet from a church and at all times more than 200 feet from the funeral procession. This conduct does not approach the invasiveness of the conduct of the defendants in this case. The defendants assert the broad notion that crime always is a legitimate matter of public concern, as if that justifies making false accusations against innocent people or otherwise engaging in lynch-mob style activity. If their argument were accepted, false accusations of criminal wrongdoing never would be actionable as defamation, intentional infliction of emotional distress or defamation but instead would be protected by the First Amendment. No court ever has made such a ruling. *See, e.g.,* Bhatia v. Debek, 287 Conn. 397, 948 A.2d 1009 (2008).

III THE APPELLATE COURT PROPERLY AFFIRMED THE TRIAL COURT'S DETERMINATION THAT THE DEFENDANTS WERE LIABLE FOR DEFAMATION PER SE OF THE PLAINTIFF

The Court found that the following statements by the defendants were defamatory: "Fran Vrabel testified that Janice Smolinski told her on several occasions that Gleason 'did something to her son' and that 'she believes that either Madeline or someone in her family murdered her son.' Ms. DePallo testified Janice Smolinski approached her and said you do not know what Gleason is capable of; she said she does not believe Gleason killed her son personally but she knows where he is and Mrs. Smolinski thought 'she's involved.'"

(Memorandum of Decision, p. 20) "Gleason testified the defendants followed her everywhere. She drove to her gym, the defendants were following her and Gleason says 'a guy came and said those people (referring to the Smolinskis) just followed you in and said you were a murderer.'" (Id., p. 22)

The defendants claim that the statements to Ms. Vrabel and Ms. DePallo were mere expressions of opinion and therefore not defamatory. They are mistaken. A purported statement of opinion that implies the existence of a fact is not protected. Goodrich v. Waterbury Republican-American, Inc., 188 Conn.107, 117-18, 448 A.2d 1317 (1982); Lester v. Powers, 596 A.2d 65, 69 (Me. 1991).

The defendants claim that the statement to the man at the plaintiff's gym should not be considered against them because (1) it is hearsay and (2) the identity of the speaker is unclear. The statement is not hearsay, however, for the reasons stated in the Court's decision. The statement of the "man at the gym" is not hearsay because it was offered not for the truth of the contents but for the fact that the statement was made. The defendants were identified by the plaintiff as having followed her to the gym and those persons were identified as the speakers. The defamatory statement was made by the defendants.

The defendants claim that the plaintiff had the burden of proving that she was innocent of murder in order to prevail on her defamation claim. In fact, the burden of proving the falsity of the statement applies only to public figure plaintiffs. *Goodrich, supra*, at 112 *fn.* 6. Connecticut has never deviated from the common law rule that truth is an affirmative defense in defamation cases involving private citizens. Atwater v. Morning News Co., 67 Conn. 504, 520, 34 Atl. 865 (1896). That also is the position of the scholarly commentators on the law of defamation. "There is considerable unease with the notion

that plaintiffs must disprove defamations that few of us could disprove about ourselves, no matter how scandalous and no matter how unfounded." *Law of Torts*, Harper, James & Gray (2d Ed.) §5.20, pp. 175-76.

The defendants claim, however, that the plaintiff is a public figure. They assert that she was a "suspect" in Smolinski's disappearance and that, accordingly, she has the burden of proving herself innocent not only of committing a crime (no homicide ever has been established, or even the fact of death) but, apparently, of being a "suspect". According to the defendants, anyone "suspected" of any crime (even if there is no evidence of a crime) becomes by that fact a public figure deprived of the usual protections of the law of defamation. But in this case, the plaintiff's name entered the investigation only because the defendants put it there. All of the speculation about the plaintiff's private life, the names and characters of the men she dated, the lives and affairs of her children, the relationships between her employer and others in the community, all were placed in the public sphere only by the unilateral actions of the defendants themselves. There is not a scintilla of evidence in this case to support the argument that the police became interested in the plaintiff by virtue of their own activities.

In Gertz v. Robert Welch, Inc., 418 U.S. 323, 351 (1974), the Supreme Court drew a distinction between a "general purpose" public figure and a "limited purpose" public figure who "voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues." Presumably, the defendants are claiming that the plaintiff is a "limited purpose" public figure within this definition. She could meet that definition, however, only if the defamation itself is sufficient to draw her into the controversy and thus make her one. If that were true, *all* victims of defamation would be

"limited purpose" public figures simply by virtue of being publicly defamed. No case has gone that far. Thus, the defendants are asking this court to make new law and, in effect, to make the "public figure" provisions of New York Times v. Sullivan, 376 U.S. 254 (1964), applicable to every victim of defamation in Connecticut.

Even if this court were to adopt the defendants' radical position, however, it would not alter the result in this case. The trial court, as the finder of fact, found as a fact that the defendants' statements were made with actual malice, as defined by Connecticut law. *E.g.*, Bhatia v. Debek, *supra*, 287 Conn. at 411. (Petitioners' Appendix at p. 22) Indeed, as the trial court found and as the record amply supports, the defendants accused the plaintiff of murder, or of involvement in murder, in "reckless disregard of whether the statements...were truthful." *Ibid.*[4] The defendants simply had no factual basis whatsoever for the accusations they made, yet they made them anyway and did so not only with knowledge that they would injure the plaintiff but for the specific and articulated purpose of "break[ing] her". The evidence before the court was sufficient to establish that the plaintiff had no knowledge whatsoever concerning the disappearance of Billy Smolinski. *E.g.*, 11/29/11 Transcript pp. 87, 122. There was no evidence at all to the contrary. Thus, under any standard of proof and any application of the law of defamation to the facts of this case, the plaintiff proved her claims. The defendants made false statements concerning her,

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"If the plaintiff is a public figure..., the plaintiff also must prove that the defamatory statement was made with actual malice, such that 'the statement, when made, [was] made with actual knowledge that it was false *or with reckless disregard of whether it was false.*" Gambardella v. Apple Health Care, Inc., 291 Conn. 620, 628, 969 A.2d 736 (2009), *quoting* Woodcock v. Journal Publishing Co., 230 Conn. 525, 535, 646 A.2d 92 (1994). (Emphasis supplied.)

falsely accusing her of involvement in a crime of moral turpitude, and did so without any factual basis and with actual malice. Gambardella v. Apple Health Care, Inc., 291 Conn. 620, 628, 969 A.2d 736 (2009). The evidence before the trial court, which that court credited as it had every right to do, was sufficient to establish liability for defamation and for the award of both compensatory and punitive damages.

CONCLUSION

The judgment below should be affirmed.

Respectfully submitted:

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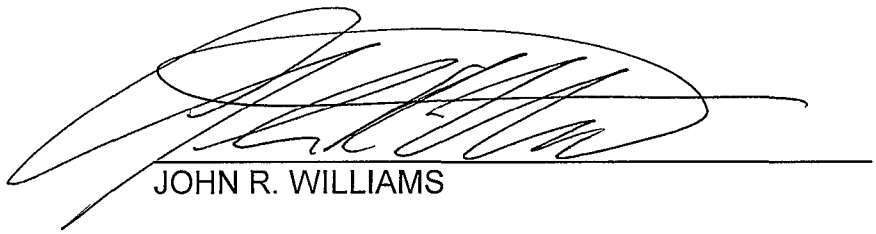
CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this brief complies with all the provisions of Section 67-2 of the Practice Book and uses Arial 12 point typeface. The electronically submitted brief and appendix in this matter has been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided and has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law. This brief and appendix, if any, is a true copy of the brief and appendix, if any, submitted electronically pursuant to Section 67-2(g) of the Practice Book.



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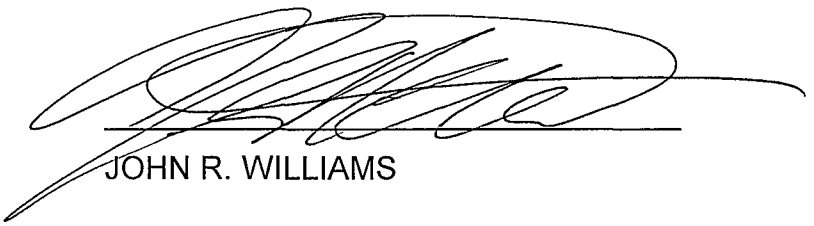
CERTIFICATION OF SERVICE

On September 8, 2014, copies hereof were mailed to Christopher P. DeMarco, Esq., 131 Dwight Street, New Haven, CT 06511; to Steven J. Kelly and Anne T. McKenna, Silverman Thompson Slutkin & White LLC, 201 North Charles Street, Suite 2600, Baltimore, MD 21201; and to Hon. Thomas Corradino, 235 Church Street, New Haven, CT 06510.



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